

REMARKS

Claims 2, 8-19, 22 and 23 have been amended. Accordingly, claims 1, 2, 8-23, 88, 240 and 241 are pending. Claims 2, 8-19, 22 and 23 were amended to change dependency either directly or indirectly to claim 240.

In response to this Restriction Requirement, Applicant hereby elects Group III, with traverse (please see below).

At pages 3-4 of the Restriction Requirement, the Examiner also required an election of a single chemical structure corresponding to formula (I) should Group III be elected. This further requirement for restriction is also respectfully traversed (see below). In response to the requirement for an election of species, Applicant hereby elects a species of structure (III) (claim 22, page 26 of the application wherein $x=3$ and $n=36$). Support for the selection of $x = 3$ can be found at claim 21 wherein capric acid is recited. This corresponds to a compound of formula A-X-Y-Z-R₁ wherein;

A is carboxy “-CO₂H”;

X is 1,2,3,4-tetra(decanoyloxy)butane “- (CH₃(CH₂)₈C(O)OCH)₄-”;

Y is -C(=O)-;

Z is O; and

R₁ is poly(ethylene glycol) methyl ether (the choice $n=36$ provides a polyether chain of 39 ethoxide units capped with a methyl group).

On page 5, paragraph 8 of the Office action stated that a reply to this requirement must include the identification of the claims encompassing the elected invention. Applicant notes that amended claims 2, 8-19, 22 and 23 and previously presented claims 20, 21, 240 and 241 encompass the elected invention “Group III”.

Applicant respectfully traverses the restriction requirements described above. On page 2, paragraph 2 of the Restriction Requirement the Examiner stated that the common technical feature among Groups I-III is the compound of Formula (I) which is not novel as evidenced by Uhrich et al. (International Publication No. WO 03/005959; abstract, pages 2-8, Figures 6, 10 and 11). The Examiner also stated that Uhrich et al. teach the use of these compounds to sequester lipoproteins such as LDL and the administration of these compounds to patients. Therefore the Examiner concluded the Groups do not share a common special technical feature and are subject to restriction.

Applicant notes that the compounds recited in the instant claims are novel over the disclosure of Uhrich as there is no overlap between the compounds recited in the instant claims and the compounds of formula (I) discussed in Uhrich. The abstract, examples 6, 10 and 11 and the general formula (I) (page 2) of Uhrich all require a core polyol or polyacid R_1 therein. The compounds recited in the instant claims do not include the R_1 polyol core present in the compounds discussed by Uhrich. Therefore, the compounds recited in the instant claims are chemically distinct and novel over the compounds discussed by Uhrich. Accordingly, the statement made by the Examiner to support the holding of lack of unity for the instant claims is incorrect; the compounds recited in the instant claims are novel over the disclosure of Uhrich. Thus, Applicant respectfully asserts that the restriction of Groups I-III is unsupported and is improper and withdrawal of the restriction is requested.

Applicant also traverses the further requirement for an election of species. On page 4, paragraph 7 of the restriction Requirement the Examiner stated that the species lack the same or corresponding technical features for the following reasons: the compound of chemical formula (I) and the method for sequestering LDL (Group I) are anticipated by Uhrich et al. as set forth in paragraph 2 above." For the same reasons discussed above Applicant asserts that the statement made by the Examiner to support the holding of lack of unity for the instant claims is incorrect; the compounds recited in the instant claims are not anticipated by Uhrich. Thus, Applicant respectfully asserts that the further requirement for an election of species is unsupported and is improper and withdrawal of the restriction is requested.

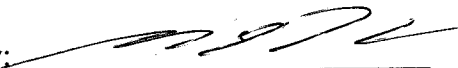
Applicant : Kathryn E. Uhrich et al.
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The Examiner is invited to contact Applicant's Representative at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3503. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account 50-3503.

Respectfully submitted,
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